

NATURAL RESOURCES COMMISSION

Meeting Minutes

April 16, 2008

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, April 16, 2008. The following Commissioners were present: Jamie Bemis, Acting Chair, Montgomery Lovejoy, and Steve Verrill. Delia Kaye, Natural Resources Administrator, and Cynthia L. Gray, Natural Resources Administrative Assistant, were also present.

CONTINUANCES:

NASHOBA BROOKS SCHOOL / ANRAD – 200, 266, 280 Strawberry Hill Road & 3B Macone Farm Lane, **DEP File # 137-966** - Confirmation of certain wetland resource area boundaries on the property.

Rich Harrington of Stamski and McNary, Inc. appeared with Karl Kussin, Director of Development and a member of the Building Committee at Nashoba Brooks School. As requested by the Commission, wetland flags 20A through 20H were flagged in the field and shown on revised plans.

The drainage ditch shown as perennial on USGS mapping was probably created to drain the wetlands for agriculture. The agricultural ditch flows into Angiers Pond, an impoundment of Spencer Brook. Rich Harrington stated that if the Angiers Pond spillway wasn't present, the ditch would not hold water.

The Commission discussed the regulatory definitions of rivers and ponds. Small bodies of water (less than 10,000 square feet) do not meet the requirements of a pond according to the Wetland Protection Act Regulations. In accordance with the Regulations, a pond with river characteristics may be determined to be a stream, but a stream mapped by USGS as a stream cannot be determined a pond.

A site visit will be coordinated among Commission members who have not yet viewed the site. This hearing was continued to May 7, 2008.

NEW APPLICATIONS:

PERKINS – 322 Barrett's Mill Road / **RDA** – Construct a second story addition to an existing single-family dwelling and expand the existing entry with a covered entry in the 200-foot Riverfront Area of Spencer Brook and the 100-foot Buffer Zone to Bordering Vegetated Wetland and Bank.

The Applicant, Judith Perkins, appeared before the Commission. Jamie Bemis disclosed that Judy Perkins is a personal friend but that she has no personal or economic interest in this matter. Neither the Commission nor anyone present had any objections to her participation in this hearing.

Judith Perkins gave an overview of the project noting that the stone wall had collapsed in 1993, which was subsequently repaired. There is no proposed change to the footprint of the dwelling. Instead, she is proposing to build up, cutting the roof and adding a second-story addition and relocating the downspout. She submitted photographs taken on April 15, 2008 and used a model of the structure to show the proposed second-story addition. Though work is proposed within the 25-foot No Disturb Zone, the

Commission determined that the work would not alter the downgradient wetlands because there was no earth work and no increase in the building footprint.

Montgomery Lovejoy moved to issue a Negative Determination of Applicability #3 and #4 with standard special conditions. Steve Verrill seconded. All so voted.

DEPARTMENT OF CONSERVATION AND RECREATION - 90B Walden Street / Abbreviated NOI - The proposed project involves rehabilitating a portion of an existing trail adjacent to the railroad embankment within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetland, **DEP File #137-968**.

DCR will be submitting a Notice of Intent instead of the Abbreviated NOI later this week because work in Bank cannot be authorized under an Abbreviated NOI.

Denise Morrissey, Park Supervisor appeared with Peter Hoffman, Assistant Supervisor, of Walden Pond State Reservation. The Department of Conservation and Recreation (DCR) proposes to rehabilitate 80 linear feet of the pond path which currently poses a safety risk, and approximately 50 linear feet of the secondary access trail along the west bank of Walden Pond, adjacent to the railroad tracks. The distance between the trail and the water is narrow. There is no lip or curb from the path to the water's edge as it has all but worn away. A uniform 4-foot wide trail will remain with no width increase proposed. There was discussion about the cause of the erosion and how erosion could be limited during the redevelopment stage. Frequent use of the trail was stated to be the cause of erosion. Patrolling the pond possibly could have reduced or prevented the erosion issue, but with as many as 550,000 visitors each year, it becomes next to impossible to manage.

The contractor retained for this project has all new equipment reducing the threat of leaks. The contractor also has motorized wheel barrows with tracks. Special Conditions may include a replanting plan to be reviewed and approved by the Natural Resources Administrator.

This hearing was continued to May 7, 2008. Steve Verrill moved to close and issue an Order of Conditions on May 7, 2008 pending receipt of the requested revised information and approval of DNR staff. Montgomery Lovejoy seconded. All so voted.

COTT – 599 Monument Street / NOI – The proposed project involves demolishing an existing single-family dwelling and constructing a new single-family dwelling, driveway, landscaping improvements and installation of a new septic system in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-967**.

Stephen Garvin of Samiotes Consultants appeared with the Applicants, Leland and Felice Cott. Also in attendance was Gigi Saltonstall of Richard Burck Associates, Inc., and Mary Rimmer, Principal and Senior Wetland Scientist of Rimmer Environmental Consulting.

The proposed project entails 15,510 square feet of alteration in the 100-foot Buffer Zone to Bordering Vegetated Wetland. The existing lawn is located on the northern side of the premises, where a meadow is proposed in an existing lawn area. A slight widening of the variable-width driveway to 11 feet is proposed due to safety issues, which results in an increase in 300 feet of impervious surface. The Board of Health has approved the septic system located outside the Buffer Zone. Manual removal of invasive species is proposed and a perennial garden will be located south of the dwelling. Gigi Saltonstall submitted an

Invasive Species Plan at tonight's hearing. Approximately 14 trees will be removed for the footprint of the house, and 24 trees will be added as part of the planting plan. Staff requested the Applicant stake the limit of work to show the existing lawn in relation to treeline.

A Commission site visit was scheduled for April 29, 2008 at 8:30 a.m. This hearing was continued to May 7, 2008.

REQUEST FOR EXTENSION:

SILVER HILL POND – off Silver Hill Road, DEP File #137-534

Dominic Meringolo of Aquatic Control Technology, Inc. appeared together with Tim Daughters of the Silver Hill Pond Association.

This project involves aquatic pond management with a goal of balancing protection of fish and wildlife and recreation. The Silver Hill Pond Association stated that it continually educates its residents on maintaining vegetated buffers to the pond. There are four properties on the south side of the premises that mow down to the water's edge. A question of the pond being located solely in Concord arose. It appears that there is a small portion of the pond located in Carlisle, which may constitute additional permission from the Carlisle Conservation Commission. The Commission noted concern with the 18 consecutive years of herbicide treatment and that it would be necessary to establish a more long-term plan considering other options rather than the use of herbicides. Delia Kaye suggested sampling at the pond outlet to determine whether any herbicide is traveling out of the pond system. A portion of the land around the pond is in a conservation restriction, and the language of the conservation restriction should be reviewed for protection of the pond. Dominic Meringolo noted that the use of herbicides provides the least amount of disturbance and is economically feasible.

Another concern of the Commission was a finding in the 2007 Report indicating increased levels of phosphorus. Current phosphorus testing is done on an annual basis, but the Association may have to consider additional testing. James Hankins, 329 Silver Hill Road, stated he has lived in his home since 1999 and noted problems with the footpath eroding into the pond. Minor applications of herbicide are only being applied to one area of the pond, near the beach. He is a biologist and has studied the effects of toxins on amphibians. He believes that there is an enormous amphibian population in the pond and no signs of wildlife being adversely impacted. The Commission discussed the source of the phosphorus; fertilizers or possibly septic systems are thought to be the cause. Dominic Meringolo suggested either implementing a separate sampling station or do an additional round of sampling.

Montgomery Lovejoy moved to issue a one-year Extension with an additional special condition that a sampling station be implemented for phosphorus testing. A location map will be provided by the Applicant and a 15- to 25-foot buffer is to be maintained around the pond, which is to be coordinated with the Natural Heritage and Endangered Species Program. Sediment sampling will also be a requirement of the Extension. Steve Verrill seconded. All so voted.

NORMANDY CONCORD ACQUISITION LLC (Roadway Order) – 300 Baker Avenue Extension, DEP File #137-691 (continued to 5/7/08)

OTHER BUSINESS:

Proposed Conservation Restrictions

The Conservation Restriction Stewardship Committee (CRSC) will be submitting three separate support letters to the NRC, one for each proposed Conservation Restriction (Thornton, Ferguson and Hubbard Brook).

Hubbard Brook Conservation Restriction

Montgomery Lovejoy moved that the Natural Resources Commission recommend to the Board of Selectmen to approve the Hubbard Brook Conservation Restriction, as amended, and if further amendments are required, that DNR staff review any changes. Steve Verrill seconded. All so voted. There was a discussion on public access, and it was determined to be a benefit but it should not interfere with agricultural use.

Thornton Trust Land

Steve Verrill moved to approve the Thornton Conservation Restriction, with DNR staff reviewing any changes. Montgomery Lovejoy seconded. All so voted.

Ferguson Land

Steve Verrill moved to approve the Ferguson Conservation Restriction, with DNR staff reviewing any changes. Montgomery Lovejoy seconded. All so voted.

Red Coat Lane, Umphrey Forest Stewardship Plan

This matter was tabled until the next scheduled meeting of May 7, 2008.

Approve March 19, 2008 meeting minutes

This matter was tabled until the next scheduled meeting of May 7, 2008.

CLOSE HEARING/ISSUE PERMITS:

BRYANT – 61 Musketaquid Road, DEP File #137-964

Montgomery Lovejoy moved to close the hearing. Steve Verrill seconded. All so voted. Steve Verrill moved to approve Findings 1-3. Montgomery Lovejoy seconded. All so voted. Steve Verrill moved to issue a standard Order of Conditions with Special Conditions 19-51. Montgomery Lovejoy seconded. All so voted.

CERTIFICATES OF COMPLIANCE:

KAHN FAMILY TRUST – Lot 17, 175 Monument Farm Road, DEP File #137-428

Montgomery Lovejoy moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

The meeting adjourned at 10:15 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant